

DOCKET NO. 152890-001

Serial No. 09/805,646

Application for Patent Term Adjustment



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re application of: **Mark Grimse et al.**

Confirmation No. **4015**

Serial No.: **09/805,646**

Group Art Unit: **2121**

Filed: **March 13, 2001**

Examiner: **Michael B. Holmes**

Title: **AUTOMATED PROCESS GUIDANCE SYSTEM AND METHOD**

EXPRESS MAIL LABEL NO. EL963418402US

DATE OF DEPOSIT: December 10, 2004

MAIL STOP ISSUE FEE

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

1. APPLICATION FOR PATENT TERM ADJUSTMENT

Pursuant to 37 C.F.R. § 1.705, Applicants hereby request reinstatement of 171 days of the term reduced pursuant 37 C.F.R. § 1.704(b). This request is being filed with the payment of the issue fee and is accompanied by the fees set forth in 37 C.F.R. §§ 1.18(e)+(f). The facts supporting this request are set forth below.

Statement of the Facts

1. The patent term adjustment for examination delay

A copy of the Patent Term Adjustment sheet for this application is attached as Exhibit A. As correctly indicated thereon, the USPTO delay is 470 days . The above-identified patent application was filed under 35 U.S.C. § 111(a) on March 13, 2001. Fourteen months from the date the application was filed under 35 U.S.C. § 111(a) was May 13, 2002. A Non-Final Rejection, under 35 U.S.C. § 132, was mailed on August 26, 2003 (see Exhibit A). The date of the Non-Final Rejection was 470 days beyond 14 months from the date the application was filed under 35 U.S.C. § 111(a). Thus, Applicants submit that the correct patent term adjustment is 470 days.

2. The relevant dates for which adjustment is sought

Adjustment is not sought for additional delay on the part of the USPTO, but for an incorrect charge of delay to the Applicants. The Patent Term Adjustment sheet (Exhibit A) incorrectly indicates that the Applicants' delay is 176 days, and deducts this period of delay from the patent term adjustment due. This delay appears to be due to the filing of an allegedly late Response to the August 26, 2004 Non-Final Rejection on May 20, 2004 (see Exhibit A).

While the Patent Term Adjustment sheet (Exhibit A) shows the Response to the August 26, 2003 Non-Final Rejection as being filed on May 20, 2004, a review of the Detailed Image File Wrapper Summary, attached hereto as Exhibit B, shows that Applicants, in fact, filed a Response to the August 26, 2004 Non-Final Rejection on December 1, 2003. However, the USPTO lost the December 1, 2003 Response through no fault of the Applicants. As a result, the Examiner never received the December 1, 2003 Response. On May 20, 2004, after a discussion with the Examiner, Applicants forwarded copies of the December 1, 2003 Response and the necessary proof of the December filing to the USPTO (see Transmittal Letter, attached hereto as Exhibit C). Thus, *the period of delay on part of the Applicants is 5 days*, judged from the December 1, 2003 Response filing date, not 176 days. It is inequitable to charge the Applicant for the USPTO's actions in misplacing the Applicant's properly filed Response.

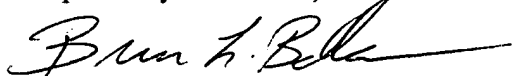
3. Terminal disclaimer

The present application is not subject to terminal disclaimer.

4. Representations regarding reasonable efforts

With the exception of the 5 day delay noted above, to the undersigned's knowledge, there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. § 1.704.

Respectfully submitted,



Brian L. Belles

Registration No. 51,322

COZEN O'CONNOR, P.C.

1900 Market Street, 5th Floor

Philadelphia, PA 19103-3508

Telephone: (215) 665-7244

Facsimile: (215) 701-2044

Date: December 10, 2004

Printer Friendly

09/805,646

AUTOMATED PROCESS GUIDANCE SYSTEM AND METHOD

Patent Term Adjustment History

Patent Term Adjustment (PTA) for Application Number: 09/805,646			
			Days
Filing or 371(c) Date:	03-13-2001	USPTO Delay (PTO):	470
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay(APPL):	176
Post-Issue Petitions (days):	+0	Total PTA:	294
USPTO Adjustment(days):	+0	Explanation Of Calculations	
Patent Term Adjustment History			
Date	Contents Description	PTO(Days)	APPL (Days)
09-15-2004	Mail Notice of Allowance		
09-14-2004	Correspondence Address Change		
09-14-2004	Change in Power of Attorney (May Include Associate POA)		
09-14-2004	Issue Revision Completed		
09-14-2004	Notice of Allowance Data Verification Completed		
09-14-2004	Notice of Allowability		
07-02-2004	Reference capture on IDS		
07-02-2004	Date Forwarded to Examiner		
05-20-2004	Information Disclosure Statement (IDS) Filed		
05-20-2004	Response after Non-Final Action	↑	176
05-20-2004	Workflow incoming amendment IFW	↑	↑
12-01-2003	Information Disclosure Statement (IDS) Filed	↑	↑
08-26-2003	Mail Non-Final Rejection	470	
08-22-2003	Non-Final Rejection	↑	
08-18-2003	Case Docketed to Examiner in GAU	↑	
12-07-2001	Application Dispatched from OIPE	↑	
11-15-2001	Application Is Now Complete	↑	
04-04-2001	Correspondence Address Change	↑	
03-31-2001	IFW Scan & PACR Auto Security Review	↑	
03-13-2001	Initial Exam Team nn	↑	

[Close Window](#)

Printer Friendly

09/805,646

AUTOMATED PROCESS GUIDANCE SYSTEM AND METHOD

Image File Wrapper

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click StartDownload.

Mail Room Date	Document Description	Page Count
09-15-2004	Notice of Allowance	4
09-15-2004	Notice of Allowance	3
09-15-2004	List of References cited by Applicant	2
09-15-2004	List of references cited by Examiner	2
09-15-2004	Issue Information on File Wrapper	1
09-15-2004	Bibliographic Data Sheet	1
09-15-2004	Claims recorded on File Wrapper	1
09-15-2004	Search info on File Wrapper	1
09-14-2004	Miscellaneous Action with SSP	2
09-06-2004	Examiner Search Notes	28
08-31-2004	Change in Power of Attorney (May include Associate POA)	4
08-31-2004	Miscellaneous Incoming Letter	2
05-20-2004	Amendment	1
05-20-2004	Specification	1
05-20-2004	Claim	3
05-20-2004	Applicant Arguments or Remarks Made in an Amendment	4
05-20-2004	Information Disclosure Statement	4
05-20-2004	Miscellaneous Incoming Letter	6
12-01-2003	Amendment	1
12-01-2003	Specification	1
12-01-2003	Claim	3
12-01-2003	Applicant Arguments or Remarks Made in an Amendment	4
12-01-2003	Information Disclosure Statement	4
12-01-2003	NPL Documents	8
12-01-2003	NPL Documents	29

12-01-2003	Miscellaneous Incoming Letter	2
08-26-2003	Non-Final Rejection	14
08-26-2003	List of references cited by Examiner	1
08-26-2003	Notice of Formal Drawings Required	1
08-18-2003	Examiner Search Notes	31
10-16-2001	Miscellaneous Incoming Letter	7
10-16-2001	Drawings	19
10-16-2001	Extension of time from Applicant - filed as separate letter	1
10-16-2001	Transmittal of New Application	2
10-16-2001	Drawings	19
09-17-2001	Miscellaneous Action with SSP	1
07-30-2001	Miscellaneous Incoming Letter	6
07-30-2001	Drawings	19
07-30-2001	Extension of time from Applicant - filed as separate letter	1
04-05-2001	Miscellaneous Action with SSP	1
03-13-2001	Issue Information on File Wrapper	1
03-13-2001	Search info on File Wrapper	1
03-13-2001	Claims recorded on File Wrapper	1
03-13-2001	Transmittal of New Application	6
03-13-2001	Drawings	19
03-13-2001	Specification	40
03-13-2001	Claim	3
03-13-2001	Abstract	1
03-13-2001	Oath or Declaration filed	26
03-13-2001	Fee Worksheet (PTO-875)	1
03-13-2001	Fee Worksheet (PTO-875)	1
03-13-2001	Transmittal of New Application	4
03-13-2001	Specification	40
03-13-2001	Claim	3
03-13-2001	Abstract	1
03-13-2001	Drawings	21
03-13-2001	Oath or Declaration filed	22

[Close Window](#)

OFFICIAL**GRAY CARY WARE & FREIDENRICH LLP****RECEIVED
CENTRAL FAX CENTER****MAY 20 2004**2000 University Avenue
East Palo Alto, CA 94303
www.graycary.comO] 650-833-2055
F] 650-833-2001**FAX TRANSMISSION COVER SHEET****May 20, 2004**

<u>To:</u>	<u>Telephone:</u>	<u>Fax Number:</u>
U.S. Patent and Trademark Office Attn.: Examiner Holmes	1-703-308-6280	1-703-746-5423

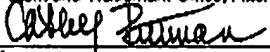
From: Timothy W. Lohse 650-833-2055	Attorney Docket Number: 1040659-991101
--	--

Re: U.S. Patent Application:	
Serial No.: 09/805,646	Filing Date: March 13, 2001
Examiner: Michael B. Holmes	Art Unit: 2121
Title: AUTOMATED PROCESS GUIDANCE SYSTEM	

Pages: - 19 - (including this form) Originals: ☐ will be mailed ☒ will not be mailedIf there is a problem with this transmission, please call (650) 833-1548
Fax Operator/Ext.**Message:**

Attached are a cover letter from Timothy Lohse and copies of the following documents:

1. Transmittal Form;
2. Fee Transmittal;
3. Response to Office Action;
4. Information Disclosure Statement;
5. Check; and
6. Stamped return postcard listing the above documents;

I hereby certify that this correspondence is being facsimile transmitted to the United States
Patent and Trademark Office, Attention Examiner Holmes, at Fax No. 703-746-5423 on May 20 2004
Cathy Pittman**CONFIDENTIALITY NOTICE**

This communication is ONLY for the person named above. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you are not the person named above, or responsible for delivering it to that person, be aware that disclosure, copying, distribution or use of this communication is strictly PROHIBITED. If you have received it in error, or are uncertain as to its proper handling, please immediately notify us by collect telephone and mail the original to us at the above address. Thank you.

(Form Rev. 8/5/00)

Gray Cary/EM7166346.1

GRAYCARY

2000 University Avenue
East Palo Alto, CA 94303-2248
www.graycary.com
OJ 650-833-2055
FJ 650-833-2001

May 20, 2004
VIA FACSIMILE - 703-746-5423

OUR FILE NO. 1040859-991101

Examiner Holmes
United States Patent and Trademark Office

Re: Submission of Response to Office action dated August 26, 2003
U.S. Patent Application Serial No. 09/805,646

Dear Examiner Holmes:

Per your request, attached are true and correct copies of the following documents that were submitted by myself on November 26, 2003 via first class mail in response to an office action mailed on August 26, 2003:

- 1) a transmittal form (with a signed certificate of first class mailing);
- 2) a fee transmittal;
- 3) a response to the office action (with a signed certificate of first class mailing);
- 4) an Information Disclosure Statement (with a signed certificate of first class mailing);
- 5) a check in the amount of \$180; and
- 6) a return postcard listing the above documents and stamped by the US Patent Office indicating receipt of the above documents on December 1, 2003.

Very truly yours,

Gray Cary Ware & Freidenrich LLP



Timothy W. Lohse
tlohse@graycary.com

TWL:twl
Enclosures
Gray Cary IEM7166341.1
1040859-991101

PTO/SB/21 (08-03)

Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <small>(to be used for all correspondence after initial filing)</small>	Application Number	09/805,646
	Filing Date	March 13, 2001
	First Named Inventor	Mark Grmse et al.
	Art	2121
	Examiner	Michael B. Holmes
Total Number of Pages in This Submission	Attorney Docket Number	1040659-991101

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavit(s)/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below): 13 References Return Postcard
Remarks The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1896. A duplicate copy of this sheet is enclosed. Customer No. 26379		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Timothy W. Lohse, Reg. No. 35,255 Gray Cary Ware & Freidenrich LLP
Signature	<i>Timothy W. Lohse</i>
Date	November 26, 2003

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.	
Typed or printed	Kathleen LaBrie
Signature	<i>Kathleen LaBrie</i>
Date	November 26, 2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. . Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9189 (1-800-786-9189) and select option 2.

TEST AVAILABLE COPY

American LegalNet, Inc.

PTO/S&17 (10-03)

Approved for use through 07/31/2008. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL

for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$180.00)

Complete If Known

Application Number 09/805,648
 Filing Date March 13, 2001
 First Named Inventor Mark Grimse et al.
 Examiner Name Michael B. Holmes
 Art Unit 2121
 Attorney Docket No. 1040659-991101

BEST AVAILABLE COPY

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None
☐ Deposit Account:

Deposit Account Number 07-1896

Deposit Account Name Gray Cary Ware & Freidenrich LLP

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 285	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 180	2005 80	Provisional filing fee	
SUBTOTAL (1) (\$)			0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1202 18	2202 9	Claims in excess of 20	
1201 88	2201 43	Independent claims in excess of 3	
1203 290	2203 145	Multiple dependent claim, if not paid	
1204 88	2204 43	** Reissue independent claims over original patent	
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2) (\$)			0.00

*or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	2053 65	Non-English specification	
1812 2,520	2812 1,260	For filing a request for <i>ex parte</i> reexamination	
1804 920*	2804 460*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	2805 920*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	2451 755	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,390	2453 695	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1490 130	2490 65	Petitions to the Commissioner	
1807 50	2807 25	Processing fee under 37 CFR 1.17(a)	
1808 180	2808 90	Submission of Information Disclosure Stmt	180.00
8021 40	28021 20	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	2802 450	Request for expedited examination of a design application	
Other fee (specify)			
*Reduced by Basic Filing Fee Paid			
SUBTOTAL (3) (\$)			180.00

SUBMITTED BY

Name (Print/Type)

Timothy W. Lohse

Registration No.

35,255

(Complete if applicable)

Telephone 650-833-2000

Signature

Timothy W. Lohse

Date

November 26, 2003

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.

GRAY CARY WARE & FREIDENRICH

401 B STREET, SUITE 2000 SAN DIEGO, CA 92101

CHECK NO.:

549119

INVOICE	DATE	AMOUNT	
11/26/03	11-26-03	180.00	1040659-991101 K. LaBr1e x2438
VENDOR ID: cpt			

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

GRAY CARY WARE & FREIDENRICH

401 B STREET, SUITE 2000
SAN DIEGO, CA 92101-4240

CHECK NO. 549119

DATE 11/26/03

AMOUNT OF CHECK
180.00

ONE HUNDRED EIGHTY AND 00/100 U.S. DOLLARS

GRAY CARY WARE & FREIDENRICH
GENERAL ACCOUNTPAY TO THE ORDER OF
DIRECTOR OF THE U.S. PATENT
AND TRADEMARK OFFICE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mailing Date: November 26, 2003
U.S. Serial No.: 09/805,646
Filing Date: March 13, 2001
Title: Automated Process Guidance System And Method

Enclosed are:

- 1) Transmittal Form (in duplicate);
- 2) Fee Transmittal (in duplicate);
- 3) Response to Office Action;
- 4) Information Disclosure Statement w/ PTO Form/SB/08a & b;
- 5) Thirteen (13) references;
- 6) Certificate of first class mailing;
- 7) Return Postcard.

1040659-991101 (Kadiri Inc.)
TWL/12074/kj

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mailing Date: November 26, 2003
U.S. Serial No.: 09/805,646
Filing Date: March 13, 2001
Title: Automated Process Guidance System And Method

Enclosed are:

- 1) Transmittal Form (in duplicate);
- 2) Fee Transmittal (in duplicate);
- 3) Response to Office Action;
- 4) Information Disclosure Statement w/ PTO Form/SB/08a & b;
- 5) Thirteen (13) references;
- 6) Certificate of first class mailing;
- 7) Return Postcard.

1040659-991101 (Kadiri Inc.)
TWL/12074/kj



|||||